THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20132 OF 2005

DATED:13.9.2005

Between:

Lekkala Venkata Lakshumma,

and others

…Petitioners

And

The Mandal Revenue Officer,

B.Mattam Mandal, Kadapa District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20132 OF 2005

ORDER:

The seven petitioners are aggrieved by the various proceedings passed by the respondent herein on 9.9.2005. By these proceedings, the respondent cancelled the assignment of agricultural land in favour of each of the petitioners on the ground that they did not bring the land into cultivation within a period of three years as stipulated in D-form patta.

Learned counsel for the petitioners, Sri L.J.Veera Reddy, vehemently contends that after receiving show cause notice, petitioners submitted individual explanations, but

the respondent passed impugned orders without considering the explanations and without conducting any enquiry and without visiting the land.

As per para 12(3) of Board Standing Order (BSO) 15, every D-form patta is granted *inter alia* subject to condition of assignee bringing the land into cultivation within three years. As per note (i) appended to paragraph 12(3) of BSO 15, for any breach of said condition, it shall be open to the Government to resume the land without assigning any reason and assign the same to whomsoever they like. This would show that when it is brought to the notice of the competent Mandal Revenue Officer that assigned land has not been brought into cultivation within the stipulated time, a detailed enquiry is not necessary. When said allegation is made, the burden is on the assignee to place necessary material to show that the land was brought under cultivation and is being enjoyed as such. Therefore, a personal visit or inspection by Mandal Revenue Officer itself is not warranted, as in the scheme of things, it would be a useless exercise. However, as held by this Court in various decisions, including the Full Bench decision in **LAO-cum-RDO, Chevella Division, Domalguda, Hyderabad v. M. Pandu** assignment by way of D-form patta is not only confers inchoate right, but a substantial right. In that view of the matter, right of *audi alteram partem* has to be invariably followed. This requires issue of notice before passing necessary orders for cancellation of resumption and assignment to others. Therefore, this Court does not find any infirmity insofar as this point is concerned. The contention of the petitioners that they have already brought the land into cultivation and therefore the order is unsustainable cannot be decided here. Paragraph (15) of BSO 15 provides for appeal to the Revenue Divisional Officer. Petitioners are given liberty to avail said remedy within one week from the date of receipt of a copy of this order.

The Writ Petition with the above observations is dismissed. No costs.

_____

(V.V.S.RAO, J)

13.9.2005

bnr